

REMARKS

Status of Claims

1. Claims 1 through 4 were originally presented in this application. Claim 5 was added in Applicants' reply dated September 28, 2005 to the first Office action on the merits in the original examination. Claims 1 and 5 were amended in a submission accompanying the RCE filed June 1, 2006. No claims have been added, canceled, or amended in this paper. Claims 1 through 5 remaining pending.

Claim Rejections – 35 U.S.C. § 102

Independent claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,133,557 to Kawanabe et al. In particular, the Office's position is that, "The limitation of the temperature uniformity being within $\pm 1\%$ is an intended use limitation."

2. Applicants respectfully traverse this rejection. Applicants respectfully submit that the Examiner's statement that the temperature uniformity limitation is an intended use limitation constitutes an admission that this limitation is not taught in the prior art of record. Applicants add that, most important, this limitation is tied into a critical structural feature of the present invention as recited in claim 1—that is, that the inter-electrode spacing is 10% or more of the susceptor thickness. Therefore, the recitation of a temperature uniformity of within $\pm 1\%$ cannot be said to be an intended use.
3. Moreover, Applicants further submit that there is no connection in the prior art of record between the electrode spacing percentage and the temperature uniformity as recited in pending claim 1. Applicants respectfully assert that they have discovered an inflection point (an electrode spacing percentage of 10%). If one plots the temperature uniformity versus electrode spacing percentage derived from the embodiments presented in the specification as filed, one can be readily see that an electrode spacing percentage of at least 10% is critical to achieving a temperature uniformity of less than 1%. Applicants respectfully submit that because this relationship is unknown in the prior art, independent claim 1 should be held allowable.
4. Likewise, Applicants courteously assert that independent claim 5 is patentable over the prior art of record for the same reasons as presented above with regard to claim 1.

Claim Rejections – 35 U.S.C. § 103

Claims 2 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawanabe et al in view of U.S. Pat. No. 6,572,814 to Shamoulian et al.

5. Independent claim 1 being allowable, it follows that dependent claims 2 through 4 must also be allowable, since claims 2 and 3 depend directly, while claim 4 depends, through claim 2, indirectly, on claim 1.

Accordingly, Applicant courteously urges that this application is in condition for allowance. Applicants request reconsideration and withdrawal of the rejections of pending claims 1 through 5. Favorable action by the Examiner at an early date is solicited.

Respectfully submitted,

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/James Judge/

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